

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Matthew Travis Houston,

Plaintiff

v.

Golden Entertainment, et al.,

Defendants

Case No.: 2:21-cv-00499-JAD-DJA

**Order Adopting Report and
Recommendation and Dismissing Case**

[ECF Nos. 32, 45]

Pro se plaintiff Matthew Travis Houston is an inmate at Nevada’s High Desert State Prison and a prolific litigant. He commenced this action in March 2021 as an “objection” to a class-action settlement notice he received in an action against Golden Entertainment.¹ A year later, he filed an “Amended Civil Rights Complaint” against more than a dozen targets unrelated to the Golden Entertainment class action.²

Houston did not pay the filing fee, and he seeks to proceed *in forma pauperis* (ifp).³ His first three applications were denied as incomplete or inappropriate, and he was given leave (and further instructions) for submitting a fourth application or paying the fee.⁴ The magistrate judge cautioned Houston that “[f]ailure to comply with this order will result in a recommendation to the District Judge that this action be dismissed. **This will be Plaintiff’s last opportunity to file a complete application to proceed *in forma pauperis* or pay the filing fee.**”⁵ When that fourth

¹ ECF No. 1-1.

² ECF No. 3.

³ ECF Nos. 22, 28, 29, 31 (ifp applications).

⁴ ECF Nos. 25, 30 (orders denying ifp applications).

⁵ ECF No. 30 at 2.

1 application was still woefully deficient, the magistrate judge denied it, too, and entered a report
2 and recommendation to dismiss this action.⁶

3 Although Houston filed a document entitled “Notice of Formal Objection as Emergency
4 Interpleadings of Factual Merit and Motion to Compel in Regards to” that recommendation,⁷ this
5 document does not address—let alone explain or attempt to cure—the deficiencies in the ifp
6 application. Instead, it is a largely incoherent and difficult-to-decipher collection (mostly) of
7 filings from other legal actions. While the report and recommendation and Houston’s objection
8 remained pending before this court, Houston filed a fifth ifp application.⁸ The magistrate judge
9 denied it as unintelligible and rife with delusional answers.⁹

10 District courts have the inherent power to control their dockets and, “[i]n the exercise of
11 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.¹⁰
12 A court may dismiss an action based on a party’s failure to obey a court order or comply with
13 local rules.¹¹ In determining whether to dismiss an action on this ground, the court must
14 consider: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to
15 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
16 disposition of cases on their merits; and (5) the availability of less drastic alternatives.¹²

18 ⁶ ECF No. 32.

19 ⁷ ECF No. 35.

20 ⁸ ECF No. 37 (fifth ifp application).

21 ⁹ ECF No. 38.

22 ¹⁰ *Thompson v. Hous. Auth. of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

23 ¹¹ *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissing for failure to
comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)
(dismissing for lack of prosecution and failure to comply with local rules).

¹² *In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
Malone, 833 F.2d at 130).

1 The first two factors, the public’s interest in expeditiously resolving this litigation and the court’s
 2 interest in managing its docket, weigh in favor of dismissal of the plaintiff’s claims. The third
 3 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption
 4 of injury arises from the occurrence of unreasonable delay in prosecuting an action.¹³ The fourth
 5 factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by
 6 the factors favoring dismissal.

7 The fifth factor requires the court to consider whether less drastic alternatives can be used
 8 to correct the party’s failure that brought about the court’s need to consider dismissal.¹⁴ Courts
 9 “need not exhaust every sanction short of dismissal before finally dismissing a case, but must
 10 explore possible and meaningful alternatives.”¹⁵ Because this court cannot operate without
 11 collecting reasonable fees, and litigation cannot progress without a plaintiff’s compliance with
 12 court orders, the only alternative is to give Houston yet another chance to try again and hope that
 13 his sixth try yields a complete, sensible ifp application. But the largely unintelligible nature of
 14 Houston’s filings in this action to date suggests that this approach will only delay the inevitable
 15 and further squander the court’s finite resources. So the fifth factor favors dismissal.

16 Having thoroughly weighed these dismissal factors, I find that they tip heavily in favor of
 17 dismissal. IT IS THEREFORE ORDERED that the magistrate judge’s report and
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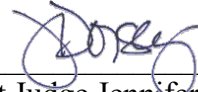
19 ¹³ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

20 ¹⁴ *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less
 21 drastic alternatives *before* the party has disobeyed a court order does not satisfy this factor);
 22 accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the
 23 persuasive force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of last drastic
 alternatives prior to disobedience of the court’s order as satisfying this element[.]” i.e., like the
 “initial granting of leave to amend coupled with the warning of dismissal for failure to
 comply[.]” have been “eroded” by *Yourish*).

¹⁵ *Henderson*, 779 F.2d at 1424.

1 recommendation [ECF No. 32] is **ADOPTED** in its entirety. **This case is DISMISSED.** The
2 Clerk of Court is directed to ENTER JUDGMENT ACCORDINGLY and CLOSE THIS CASE.
3 And because this order terminates this case, all pending motions [ECF No. 45] are **DENIED**
4 **without prejudice and as moot.**

5 If Houston desires to proceed with his claims, and they are not duplicative of claims he
6 has pending in another action, he must file a new lawsuit and either pay the filing fee or submit a
7 complete application to proceed *in forma pauperis* in that new case.

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10 U.S. District Judge Jennifer A. Dorsey
11 December 7, 2022
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